

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

BARBARA STUART ROBINSON,

Plaintiff,

v.

PIERCE COUNTY,

Defendant.

CASE NO. 3:23-cv-05416-DGE

ORDER ON MOTION TO
PROCEED IN FORMA PAUPERIS
(DKT. NO. 1)

This matter comes before the Court on the Report and Recommendation (“R&R”) of the Honorable David W. Christel, Chief United States Magistrate Judge (Dkt. No. 4) and Plaintiff Barbara Robinson’s objections to the R&R (Dkt. No. 5). For the reasons stated herein, the Court ADOPTS the R&R but addresses Plaintiff’s objections below.

BACKGROUND

Plaintiff filed an application to proceed in forma pauperis (IFP) and a proposed complaint on May 8, 2023. (Dkt. No. 1.) Plaintiff names Pierce County as the sole defendant. (Dkt. No. 1-1.) She alleges Pierce County violated 33 U.S.C. § 931 by forcing non-citizens to lie on the “online blue card and response to [jury summons].” (*Id.* at 3–5.) She asks this Court to halt Pierce County’s juror services until it can revise all qualifying questions to ensure all persons serving on Pierce County juries are United States Citizens. (*Id.*)

On May 18, 2023, Judge Christel issued an R&R, recommending “the proposed complaint be dismissed without prejudice for failure to state a claim, the Application to Proceed IFP (Dkt. 1) be denied, and this case be closed.” The R&R notes the statute Plaintiff cites as support of her claim is the Longshore and Harbor Workers’ Compensation Act (“LHWCA”). The LHWCA provides that a claimant or representative of a claimant who knowingly and willfully makes a false statement or representation for the purpose of obtaining a benefit or payment under the Act is guilty of a felony and can be punished by imprisonment and/or a fine. 33 U.S.C § 931(a). The R&R reasons this statute does not provide a basis for Plaintiff’s claim that the Pierce County juror summons questionnaire allows non-citizens to lie about their citizenship status. Because Plaintiff provides no other basis for her claims in the Complaint, the R&R found amendment would be futile and recommends both dismissal of the Complaint and denial of the IFP application.

OBJECTIONS

Plaintiff filed timely objections to the R&R. (Dkt. No. 5.) In the objections, she cites to no authority which provides a cause of action for such a suit against Pierce County. She again

1 cites to the LHWCA, which as the R&R comprehensively outlines, is not a basis for her claims.
2 Plaintiff additionally cites to Washington Revised Code § 5.60.050, which indicates which
3 persons are incompetent to testify. However, jurors do not testify so this statute too provides no
4 basis for her claims.

5 Perhaps most relevant to her claims, Plaintiff cites Washington Revised Code § 2.36.070
6 Qualification of a Juror. Under this statute, “A person shall be competent to serve as a juror in
7 the state of Washington unless that person . . . [i]s not a citizen of the United State [or] [i]s not a
8 resident of the county in which he or she has been summoned to serve[.]” Wash. Rev. Code §
9 2.36.070 (2)–(3). As Judge Christel writes in a footnote of the R&R, there are numerous
10 additional issues with the Complaint beyond the lack of basis for suit. (Dkt. No. 4 at 4.)
11 Plaintiff’s claims in both the Complaint and the objections are conclusory without identifying
12 any facts supporting a claim for relief. Plaintiff also fails to allege an injury in fact, a necessary
13 element of standing. *See Barnum Timber Co. v. U.S. E.P.A.*, 633 F.3d 894, 897 (9th Cir. 2011).
14 Even if Pierce County were committing violations of Washington Revised Code § 2.36.070,
15 Plaintiff provides no basis for her standing in bringing suit; she instead again fruitlessly cites to
16 the LHWCA. (Dkt. No. 5 at 5.)

17 18 CONCLUSION

19 Accordingly, having conducted a de novo review of the Report and Recommendation of
20 Magistrate Judge David W. Christel, objections to the Report and Recommendation, and the
21 remaining record, the Court hereby ORDERS:

- 22
23 1. The Court adopts the Report and Recommendation (Dkt. No. 4).
24

1 2. Plaintiff's application to proceed IFP (Dkt. No. 1) is DENIED and Plaintiff's claims
2 are dismissed without prejudice.

3 3. The Clerk is directed to send copies of this Order to Plaintiff and to the Hon. David
4 W. Christel.

5
6 Dated this 2nd day of August 2023.

7
8 
9

10

David G. Estudillo
United States District Judge